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First time in a generation Tories dominate Senate, expect minor legislative battles

By BEA VONGDOUANGCHANH

Expect minor legislative battles and a rejection of more House private members' bills now that the Conservatives have a majority in the Senate, something that hasn't been seen since 1990 when Progressive Conservative prime minister Brian Mulroney had to briefly increase the size of the Senate and stack it to pass the goods and services tax.

"I think what we're likely to see isn't so much necessarily the Senate initiating legislation, rather the Senate playing an important role in ratifying or rejecting legislation," said Public Policy Forum president David Mitchell. "The reason why I say we might see more of that is because we have a minority Parliament right now in the sense that the House of Commons is made up of minorities."



Prime Minister Stephen Harper (Calgary Southwest, Alta.) appointed two new Conservative Senators last month, Don Meredith from Ontario, and Larry Smith from Quebec, giving the governing party a majority in the Upper Chamber. The Conservatives now hold 54 seats of the 105-seat chamber and can easily pass or reject legislation coming from the Commons.

Before Parliament recessed for Christmas, the Senate voted down a private member's bill, C-311, the Climate Change Accountability Act, which received opposition support in the House. Mr. Mitchell told *The Hill Times* that there could be more of that when Parliament resumes on Jan. 31.

"The governing party does not have a majority in the House, therefore the House can pass legislation even if the government doesn't agree with it through the passage of private members' bills, but then that legislation goes to the Senate for approval, the government majority in the Senate can reject it and the Climate Change Bill is a good example of that in November. We're likely to see more of that in this hung Parliament where we have a minority government in the House but a majority in the opposition so that's a dynamic that we're facing right now," he said. "That might mean a stalemate or loggerheads in the Canadian Parliament where not as much legislation gets passed if we had a unicameral system or if we didn't have a Senate."

If the government does use the Senate in this way to only pass government legislation and reject private members' bills supported by the majority of the elected House, the Conservatives will be hard-pressed to justify themselves, said University of Victoria political science professor Dennis Pilon, considering the government's long refrain about how the unelected, unaccountable Senate should not be obstructing the will of the House.

"They're going to be hoisted on their own petard if they try to use the Senate as a dynamic legislative body they will be accused of all the things that the critics of the Senate have said," Prof. Pilon said. "I think in the Canadian context everyone recognizes that the Senate is a junior partner unlike the American situation where obviously the two Houses are considered equal. It wouldn't fly that you could say, 'Well we passed it in the

Senate, so you should go along with it.' This is a very serious issue. If we're going to elect our Senate, it's going to dramatically alter the legitimacy of that body. We are technically a bicameral system, but in fact, we have a unicameral focus. The House is clearly the most important body."

Mr. Mitchell said last week that with the new Senate makeup, there will also likely be more party discipline, leading to more partisanship and less independence for Senators, even more so than previously.

"Sadly, in recent years, over the last many years the Senate has become almost a reflection of the House of Commons in terms of party discipline being exercised just as strongly. I personally think that's unfortunate because it takes away from the possibility of true sober second thought," he said.

Conservative strategist Tim Powers, vice-president of Summa Strategies, told *The Hill Times* last week, however, that the Senate has been a Chamber that's done good work on issues not even on the radar in the House.

For example, he noted that the Senate's study on mental health issues chaired by former Liberal Senator Michael Kirby led to the Conservative government creating a mental health commission a few years ago, and more recently, the Senate's study into credit and debit card fees led the government to take up the issue and create a code of conduct for the financial transaction industry.

"I would look to see that continue to happen. There are other issues that might not get as much of an exposition in the House that will get more dialogue in the Senate," he said.

He added that "there's an expectation that the Conservative Senate will support government legislation that comes through" and said that he thinks there maybe more of a "cooperative spirit" in the Senate.

"There were some unfortunate games as you will recall that were played around budget bills when the Tories didn't have the majority. I think Canadians want less games and more outcomes that are beneficial to them particularly as it relates to the management of the economy so I think that's what they'll get from the Conservative Senators," Mr. Powers said.

Mr. Mitchell told *The Hill Times* that he also hopes the Senate can continue to produce good reports on important public policy issues. "We can only hope that even with increased partisanship and party discipline the good work of Senate committees can and will continue," he said.

Meanwhile, the Senate Internal Economy, Budgets and Administration Committee made public Senators hospitality and office budgets last week in proactive disclosures on the Senate's website. Although not as detailed a breakdown of expenses as the MPs' expenses, the Senate should be applauded for moving forward on openness and transparency, Mr. Mitchell said.

"There can and should be concerns that we're spending something like \$100-million to maintain this Chamber of Parliament. Canadians can legitimately ask what is the return on the taxpayers dollars that are funding the Senate? I think the Senators have taken a very important initiative by trying to explain how they use their expenses and they should be applauded for it," he said.

The disclosures cover the period from Sept. 1 to Nov. 30, 2010 and reveal Senators' office budgets, hospitality expenses, living expenses in the National Capital Region and travel expenses.

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STATUS OF GOVERNMENT BUSINESS

HOUSE OF COMMONS

- C-4 Youth Criminal Justice Act Amendments Bill (committee)
- S-4 First Nations Matrimonial Rights Bill (second reading)
- C-5 International Transfer of Offenders Bill (committee)

- S-6 Serious Time for the Most Serious Crime Bill (third reading)
- S-7 Deterring Terrorism Bill (second reading)
- C-8 Canada-Jordan Free Trade Agreement Bill (report)
- C-10 Senate Term Limits (second reading)
- S-10 Penalties for Organized Drug Crime Bill (second reading)
- C-12 Increasing Seats in the House of Commons Bill (second reading)
- S-12 Federal Law-Civil Law Harmonization Act, No. 3 (second reading)
- C-15 Civil Liability and Compensation for Damage in Case of a Nuclear Incident (second reading)
- C-16 Restricting Conditional Sentences Bill (committee)
- C-17 Investigative Hearing and Recognizance with Conditions Bill (committee)
- C-18 Increasing Voter Participation Bill (second reading)
- C-19 Accountability with Respect to Political Loans Bill (second reading)
- C-20 An Action Plan for the National Capital Commission Bill (report)
- C-21 Sentencing for Fraud Bill (third reading)
- C-25 Nunavut Planning and Project Assessment Act Bill (second reading)
- C-26 Amendments to the International Boundary Waters Treaty Act and the International River Improvements Act (second reading)
- C-27 Canadian Wheat Board Bill (second reading)
- C-29 Safeguarding Canadians' Personal Information Bill (second reading)
- C-32 Copyright Bill (committee)
- C-33 Railway Safety Amendments Bill (committee)
- C-37 Citizenship Act Amendments Bill (second reading)
- C-38 RCMP Civilian Review Body Bill (second reading)
- C-39 New Parole Rules Bill (committee)
- C-41 Military Justice Bill (committee)
- C-42 International Flight Information Bill (report)
- C-43 RCMP Labour Relations Bill (second reading)
- C-46 Canada-Panama Free Trade Agreement Bill (report)
- C-48 Protecting Canadians by Ending Sentence Discounts for Multiple Murders Bill (committee)
- C-49 Preventing Human Smugglers from Abusing Canada's Immigration System Bill (second reading)
- C-50 Interception of Private Communications and Related Warrants and Orders Bill (second reading)
- C-51 Investigative Powers for the 21st Century Bill (second reading)
- C-52 Investigating and Preventing Criminal Electronic Communications Bill (second reading)
- C-53 Fair and Efficient Criminal Trials Bill (second reading)
- C-54 Protecting Children from Sexual Predators Bill (committee)
- C-55, An Act to amend the Canadian Forces Members and Veterans Re-establishment and Compensation Act and the Pension Act (second reading)
- C-56 Preventing the Trafficking, Abuse and Exploitation of Vulnerable Immigrants Bill (second reading)

- C-57 Canada-Jordan Free Trade Agreement Bill (second reading)

SENATE

- S-8 Selection of Senators Bill (second reading)
- S-11 Safety of Drinking Water on First Nation Lands (second reading)
- S-13 An Act to implement the Framework Agreement on Integrated Cross- Border Maritime Law Enforcement Operations between the Government of Canada and the Government of the United States of America (committee)
- C-14 Fairness at the Pumps Bill (second reading)
- C-22 Mandatory Reporting of Internet Child Pornography by ISPs Bill (second reading)
- C-23B Reforming the Pardon System Bill (second reading)
- C-30 Response to the Supreme Court of Canada Decision in R. v. Shoker Bill (second reading)
- C-35 Crooked Immigration Consultants Bill (second reading)

ADOPTED/ROYAL ASSENT

- C-2 Canada-Colombia Free Trade Agreement Bill
- S-2 Protecting Victims From Sex Offenders Bill
- C-3 Gender Equity in Indian Registration Bill
- S-3 Tax Conventions Implementation Bill
- S-5 Ensuring Safe Vehicles Imported from Mexico for Canadians Bill
- C-6 2009-2010 Supplementary Estimates C Implementation Bill
- C-7 2010-2011 Interim Supply Implementation Bill
- C-9 2010-2011 Budget Implementation Bill
- S-9 Auto Theft and Trafficking in Property Obtained by Crime Bill
- C-11 Immigration and Refugee Protection Act Amendments Bill
- C-13 Fairness for Military Families on Employment Insurance Bill
- C-23A Limiting Pardons for Serious Crimes Bill
- C-24 First Nations Certainty of Land Title Bill
- C-28 Fighting Internet and Wireless Spam Bill
- C-31 Eliminating Old Age Entitlements for Prisoners Bill
- C-34 Museums Act Amendments Bill
- C-36 Consumer Products Safety Bill
- C-40 National Seniors Day Bill
- C-44 2010-2011 Main Estimates Bill
- C-45 2010-2011 Supplementary Estimates A Bill
- C-47 Second Budget Implementation Bill
- C-58 2010-2011 Supplementary Estimates B Bill

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